

Access to Information Procedure Rules

North Yorkshire Council believes in public access to information in order to ensure that citizens can exercise their rights to have a say about decisions, and can understand what decisions have been taken and why. Although some information has to remain private, for example to respect personal privacy, commercial confidentiality or for legal reasons, the Council has adopted a presumption of openness that information will be available unless there is a substantial lawful reason why not. This is consistent with access to information legislation.

These Access to Information Procedure Rules are based on current access to information legislation: should any provision conflict with the legislation, the latter will prevail.

1. SCOPE

- 1.1 Except where indicated, these Rules apply to all meetings of the Council, its committees and sub-committees and formal meetings of the Executive and any Committees of the Executive (together called meetings).
- 1.2 Certain parts of these Rules apply to decisions by individual Members of the Executive and to decisions by individual Officers. Further information is given in Rules 19 and 19A.

2. RIGHTS TO INFORMATION

These Rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law. Executive Members and Council staff will give effect to the rights of Council Members and of citizens to information, and where there is a right to such information, requests for access to it will be dealt with in an accurate and timely fashion.

3. RIGHTS TO ATTEND MEETINGS

- 3.1 Members of the public may attend all meetings subject only to the exceptions in these Rules.
- 3.2 While a meeting is open to the public, any person attending the meeting for the purpose of reporting the proceedings is, so far as practicable, to be afforded facilities for taking their report in accordance with the provisions set out in the Council's Protocol on Audio/Visual Recording and Photography at Meetings.

4. NOTICES OF MEETING

Public Meetings

- 4.1 The Council will give notice of the time and place of any public meeting by posting details of the meeting at County Hall and at the venue for the meeting (if different) and on the Council's website. At least five clear working days before the meeting or, where the meeting is convened at shorter notice, at the time that the meeting is convened.

- 4.2 Any reference to “clear days” means all days the notice is available for public inspection (not including the day of the notice or the day of the meeting/decision) except as expressly stated otherwise in this Constitution.

Private Meetings

- 4.3 At least 28 clear calendar days before a private meeting (a meeting, or part of a meeting, of the executive decision making body during which the public are excluded) the executive decision-making body must give notice of its intention to hold the meeting in private (including a statement of the reasons for holding it in private) by making the notice available at County Hall and at the venue for the meeting (if different) and publishing it on the Council’s website.

- 4.4 At least five clear working days before a private meeting, the executive decision making body must give further notice of its intention to hold the meeting in private including:

- ◆ a statement of the reasons for holding it in private
- ◆ details of any representations received about why the meeting should be open to the public; and
- ◆ a statement of its response to any such representations

by making the notice available at County Hall and at the venue for the meeting (if different) and publishing it on the Council’s website.

Urgent Private Business

- 4.5 Where the date by which a meeting must be held makes compliance with Rules 4.3 and 4.4 impracticable, the meeting may only be held in private where the executive decision making body has obtained agreement that the meeting is urgent and cannot reasonably be deferred from the chair of the relevant Overview and Scrutiny Committee; or, if there is no such person, or if they are unable to act, the chair of the Council; or where there is no chair of either, the vice-chair of the Council.

- 4.6 As soon as reasonably practicable after agreement is given under Rule 4.5 to hold a private meeting, the executive decision making body must give notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred by making the notice available at County Hall and at the venue for the meeting (if different) and publishing it on the Council’s website.

5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

- 5.1 The Council will make copies of the agenda, and reports which are open to the public, available for inspection at County Hall and on the Council’s website at least five clear working days before the meeting. If an item is added to the agenda copies of which are open to inspection by the public, the Assistant Chief Executive Legal and Democratic Services shall make the revised agenda and the report concerning the item available to the public as soon as the report is completed and sent to Members) and subject to the report containing no confidential or exempt information as described in Rule 10.

5.2 Where a meeting is convened at shorter notice, a copy of the agenda and any associated reports to which the public have access will be available for inspection at the time the meeting is convened.

6. SUPPLY OF COPIES

6.1 The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Assistant Chief Executive Legal and Democratic Services thinks fit, copies of any other documents supplied to Members in connection with an item to any person on payment of a charge for postage and any other costs.

6.2 Subject to Rule 6.3, any member of the public may, in any publicly available medium, reproduce, or provide commentary in relation to, any document supplied to that person or made available for inspection by members of the public under these Rules.

6.3 Rule 6.2 does not require or authorise the doing of any act which infringes the copyright in any work except that, where the owner of the copyright is the Council, nothing done pursuant to that paragraph constitutes an infringement of the copyright.

7. ACCESS TO MINUTES ETC AFTER THE MEETING

7.1 Draft minutes of a collective decision are only confirmed as a correct record of the decision when approved as a correct record at the next convenient meeting of the Council, Executive, committee or sub-committee to which it relates.

7.2 The Council will make available for public inspection (at County Hall and on the Council's website) copies of the following for six years after a meeting:

- (a) the minutes of the meeting (or records of decisions taken, together with reasons), excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public and any reports considered by individual Executive Members or Officers relevant to any decisions recorded.

7.3 Where a request on behalf of a media organisation is made for a copy of any of the documents available for public inspection under 7.2 above, those documents must be supplied for the benefit of the organisation by the Council on payment by the organisation to the Council of postage, copying or other necessary charge for transmission.

8. BACKGROUND PAPERS

8.1 List of background papers

The Assistant Chief Executive Legal and Democratic Services will ensure that there is set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in their opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report,

but this does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of executive reports, the advice of a political adviser or assistant.

8.2 Public inspection of background papers

The Council will make available for public inspection (at County Hall and on the Council's website), both from the date from which the relevant report was made available for public inspection, and for four years after the date of the meeting, one copy of each of the documents on the list of background papers.

9. SUMMARY OF PUBLIC'S RIGHTS

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at County Hall, Northallerton. These Rules constitute that summary.

10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

10.1 Confidential information – requirement to exclude public

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings, that confidential information (see 10.4) would be disclosed.

10.2 Exempt information – discretion to exclude public

10.2.1 The public may be excluded from meetings whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that exempt information (see 10.5) would be disclosed.

10.2.1 The public may also be excluded under 10.1 and 10.2 for the part or parts of the meeting during which it is likely that confidential information or exempt information would be disclosed.

10.3 Information marked “not for publication”

No Member or member of staff shall:

- (a) disclose any information which has been reported to Council, to the Executive or to a committee or sub-committee and which is confidential information; or

- (b) without the permission of the Council, the Executive or the relevant committee or sub-committee, disclose any information which is identified as exempt information in a resolution by the Council, the Executive or a committee or sub-committee to exclude the public in accordance with the provisions of section 100A of the Local Government Act 1972, except:
- ♦ in so far as that is necessary to provide a public summary of information considered in private; or
 - ♦ if authorised by the Monitoring Officer as reasonable and in the public interest.

The following considerations may be relevant in assessing the public interest in the disclosure or otherwise of information:

- The public interest in disclosure is particularly strong where the information in question would assist public understanding of an issue that is subject to a current national debate.
- The issue has generated public or parliamentary debate.
- Proper debate cannot take place without wide availability of all the relevant information.
- The issue affects a wide range of individuals or companies.
- The public interest in a local interest group having sufficient information to represent effectively local interest on an issue.
- Facts and analysis behind major policy decisions.
- Known reasons for decisions.
- Accountability for proceeds of sale of assets in public ownership.
- Openness and accountability for tender processes and prices.
- Public interest in public bodies obtaining value for money.
- Public health.
- Contingency plans in an emergency.
- Damage to the environment.

10.4 **Meaning of confidential information**

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

10.5 **Meaning of exempt information**

Exempt information means information falling within the following 7 categories (subject to any qualifications). Please note that even if the information falls within a category of exempt information, a public interest test re disclosure or exemption must still be applied (see Part 2, paragraph 10 below).

**PART 1
DESCRIPTIONS OF EXEMPT INFORMATION:
ENGLAND**

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes –
 - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - (b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

**PART 2
QUALIFICATIONS: ENGLAND**

8. Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under –
 - (a) the Companies Acts (as defined in section 2 of the Companies Act 2006)
 - (b) the Friendly Societies Act 1974
 - (c) the Friendly Societies Act 1992
 - (d) the Co-operative and Community Benefit Societies Act 2014
 - (e) the Building Societies Act 1986; or
 - (f) the Charities Act 2011
9. Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission or permission in principle pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.
10. Information which –

- (a) falls within any of paragraphs 1 to 7 above; and
- (b) is not prevented from being exempt by virtue of paragraph 8 or 9 above,

is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If the Assistant Chief Executive Legal and Democratic Services thinks fit, they may exclude access by the public to reports which in their opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

12. APPLICATION OF RULES TO THE EXECUTIVE

- 12.1 These Access to Information Procedure Rules apply to meetings of the Executive, any Committees it may establish, and joint committees (and their sub-committees) where all the members of the joint committee are members of a local authority executive.
- 12.2 Rules 13, 14, 15 and 16 also apply to decisions by individual Executive Members.
- 12.3 Subject to Rules 15 and 16, any report on which a decision by the Executive, a committee of the Executive, or an individual Executive Member, is to be based will be available five clear working days in advance of the decision, and will be copied by the Chief Executive Officer or the relevant Corporate Director to the Chair and Vice-Chair of the relevant Overview and Scrutiny Committee(s).

13. PROCEDURE BEFORE TAKING KEY DECISIONS

- 13.1 Some executive decisions are classed as being significant and are known as "key decisions" (as defined in Article 13). Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision may not be made until a document (called here a Forward Plan) has been published in connection with the matter in question.
- 13.2 At least 28 clear calendar days before a key decision is made, the Forward Plan must be made available for inspection by the public at County Hall and on the Council's website.
- 13.3 Where the key decision is to be taken at a meeting of the Executive or its committees or by an Area Committee, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

14. THE FORWARD PLAN

14.1 Period of Forward Plan

- (a) The Forward Plan is prepared by the Assistant Chief Executive Legal and Democratic Services and published every working Monday. Each Plan covers the forthcoming 12 month period.

- (b) On the day of publication of the Plan, the Assistant Chief Executive Legal and Democratic Services will send a link to the Plan to all Members by e-mail.
- (c) Items can be added to the Forward Plan directly via the Democratic Services Committee Management System or by notifying Legal and Democratic Services using a form available from them and also published on the Intranet. The Forward Plan itself is published on the Council website.

14.2 Contents of Forward Plan

- (a) The Forward Plan is published online via the Democratic Services Committee Management System and contains matters which will be the subject of a key decision to be taken by the Executive, a committee of the Executive, individual Members of the Executive, Officers, Area Committees or under joint arrangements in the course of the discharge of an executive function during the period covered by the Plan.
- (b) Other important (but non-executive) decisions should also be included on the Plan, even if they are not 'key' decisions as defined in Article 13.03(b).
- (c) The Forward Plan will describe the following particulars in so far as the information is available or might reasonably be obtained:
 - (i) that a key decision is to be made on behalf of the authority
 - (ii) the matter in respect of which the decision is to be made
 - (iii) where the decision maker is an individual, their name and title, if any, and where the decision maker is a body, its name and a list of its members
 - (iv) the date on which, or the period within which, the decision is to be made
 - (v) a list of the documents submitted to the decision-maker for consideration in relation to the matter
 - (vi) address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available
 - (vii) that other documents relevant to those matters may be submitted to the decision-maker; and
 - (viii) the procedure for requesting details of those documents (if any) as they become available.

Where in relation to any proposed key decision, the public may be excluded from the meeting as otherwise confidential or exempt information may be disclosed, then the Forward Plan must contain particulars of the matter but not the confidential/exempt information itself.

15. GENERAL EXCEPTION

- 15.1 If the publication of the intention to make a key decision is impracticable and a matter which is likely to be a key decision has not been included in the Forward Plan for the requisite period as set out in Rule 13.2, then subject to Rule 16 (special urgency), the decision may still be taken if:
- (a) the Assistant Chief Executive Legal and Democratic Services has informed the Chair of a relevant Overview and Scrutiny Committee, or if there is no such person, each Member of that committee by notice in writing, of the matter about which the decision is to be made
 - (b) the Assistant Chief Executive Legal and Democratic Services has made copies of that notice available to the public at the offices of the Council and on the Council's website; and
 - (c) at least five clear working days have elapsed following the day on which the Assistant Chief Executive Legal and Democratic Services complied with (a) and (b).
- 15.2 As soon as reasonably practicable after the Assistant Chief Executive Legal and Democratic Services has complied with (a) to (c) above, they must make available at the Council's offices a notice setting out the reasons why compliance with Rule 13.2 is impracticable and publish that notice on the Council's website.
- 15.3 Where such a decision is taken collectively, it must be taken in public, subject to any confidential or exempt information not being made available to the public.

16. SPECIAL URGENCY

- 16.1 Where the date by which a decision must be made makes compliance with Rule 15 (general exception) impracticable, then the decision can only be made if the decision maker (if an individual) or the Chair of the body making the decision, obtains the written agreement of the Chair of a relevant Overview and Scrutiny Committee that the making of the decision is urgent and cannot reasonably be deferred. If there is no Chair of a relevant Overview and Scrutiny Committee, or if the Chair of the relevant Overview and Scrutiny Committee is unable to act, then the agreement of the Chair of the Council, or in their absence the Vice-Chair will suffice.
- 16.2 As soon as reasonably practicable after the decision maker has obtained agreement under Rule 16.1 above, they must make available at the Council's offices a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred and publish the notice on the Council's website.

17. REPORT TO COUNCIL

17.1 When an Overview and Scrutiny Committee can require a report

- 17.1.1 Where an executive decision has been made and was not treated as a key decision and a relevant Overview and Scrutiny Committee is of the opinion that the decision should have been treated as a key decision, then the Committee may require the Executive to submit a report to the Council within such reasonable period as the Committee specifies.

17.1.2 A report under 17.1.1 must include details of -

- (a) the decision and the reasons for the decision
- (b) the decision maker by which the decision was made; and
- (c) if the Executive is of the opinion that the decision was not a key decision, the reasons for that opinion.

17.2 Executive's report to Council

The Executive will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 clear calendar days of receipt of the written notice, or the resolution of the Committee, then the report may be submitted to the meeting after that.

17.3 Reports on special urgency decisions

17.3.1 The Leader will submit to the next meeting of the Council, a report on any executive decisions taken in the circumstances set out in Rule 16 (special urgency). The report must include particulars of the decision, a summary of the matters in respect of which the decision was made, the reasons for it and the reasons for use of the special urgency procedure.

17.3.2 The Leader must submit at least one report under 17.3.1 annually to Council.

18. RECORD OF DECISIONS

18.1 Executive Decisions Made Collectively at Meetings

As soon as reasonably practicable after any meeting of the Executive or any of its committees, or any meeting of any other decision making body at which an executive decision has been made, whether held in public or private, the Assistant Chief Executive Legal and Democratic Services or, where no Officer was present, the person presiding at the meeting, will produce a record of every executive decision taken at that meeting usually within two clear working days of the meeting (usually in the form of minutes of the meeting). The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting, along with details of any conflict of interest declared by any Member of the decision making body and any dispensations granted by the Standards and Governance Committee or Monitoring Officer in respect of such conflict.

18.2 Copies of those Minutes/Decision Records will then be circulated, by e-mail, to:

- ♦ All Members of the Council
- ♦ All Management Board
- ♦ All Management Board Personal Assistants
- ♦ All Senior Managers
- ♦ All Democratic Services Officers
- ♦ All Corporate Development Officers
- ♦ Senior Press Officer
- ♦ Communications Officer

19. EXECUTIVE DECISIONS BY INDIVIDUAL OFFICERS OR INDIVIDUAL MEMBERS OF THE EXECUTIVE

(For the decision making powers of individual Executive Members and Officers, see the Executive Members' and Officers' Delegation Schemes in Part 3).

19.1 Reports intended to be taken into account

Where:

- (a) an individual Member of the Executive receives a report which they intend to take into account in making any executive decision; or
- (b) an Officer (either alone or in consultation with an Executive Member) receives a report which they intend to take into account in making any key decision,

then (subject to Rule 16) they will not make the decision until at least five clear working days after receipt of that report. Please also see Rule 19.3(e) regarding the inspection of reports and documents following individual executive decisions.

19.2 Provision of copies of reports to Overview and Scrutiny Committees

On the giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the Chair and Vice-Chair of every relevant Overview and Scrutiny Committee as soon as reasonably practicable and make it publicly available at the same time.

19.3 Record of individual decision

- (a) As soon as reasonably practicable after an executive decision has been taken by an individual Member of the Executive or by an Officer, (either alone or in consultation with an Executive Member) they will prepare a record of the decision, via the Democratic Services Committee Management System, including the date it was made, a statement of the reasons for it and any alternative options considered and rejected, a record of any conflict of interest declared by any Executive Member who is consulted in relation to the decision, and a note of any dispensation granted in respect of any declared conflict of interest; alternatively the decision record proforma (available from Democratic Services) may be produced and emailed to Legal and Democratic Services for publication via Democratic Services Committee Management System.

Guidance points:

Regarding executive decisions by Officers, those executive decisions which are purely administrative or operational in nature will not usually be subject to the decision record recording and publication requirements. The authority has agreed to categorise as administrative/operational those executive decisions which are not key decisions and which:

- *are routine, day to day operational decisions under general delegations; and*
- *are within approved budget and policy; and*
- *have financial implications of £50,000 or less*

HOWEVER, each matter should be considered in light of its particular circumstances and with regard to the likely level of public interest in it.

DCLG has offered guidance on what should and should not be recorded:

The decisions that should be not recorded might include the following examples:

- *Decisions to allocate social carers to particular individuals, or for example, to provide walking aids*
- *decisions to allocate a social housing unit to an applicant or to send someone to carry out repairs*
- *decisions to review the benefit claims of an individual applicant and*
- *decisions to allocate market stalls to individual traders.*

Where officers have been empowered to act on behalf of their council's executive, examples of decisions that should be recorded could include:

- *Decisions about awarding contracts above specified individual or total values*
- *decisions to exercise powers of Compulsory Purchase*
- *decisions on disposal of and/or provision of allotment land and green spaces*
- *awarding a Discretionary Rate Relief*
- *the opening hours of local libraries; and*
- *the holding of car boot sales/markets on council-owned land.*

(b) Copies of the decision record will be sent electronically, as soon as possible, to:

- ◆ All Members of the Council
- ◆ All Management Board
- ◆ All Management Board Personal Assistants
- ◆ All Senior Managers
- ◆ All Democratic Services Officers
- ◆ Senior Press Officer
- ◆ Communications Officer

(c) The Assistant Chief Executive Legal and Democratic Services will be responsible for forwarding the record to all Members and will publish the record on the Council's website on the day of receipt.

(d) Any record containing confidential and/or exempt information, must be marked "not for publication" in the top right hand corner. Where possible, the Assistant Chief Executive Legal and Democratic Services will remove any

confidential and/or exempt information before publishing it on the Council's website.

- (e) The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of executive decisions by individual Members of the Executive and Officers. This does not require the disclosure of exempt or confidential information.

19A IMPLEMENTATION OF EXECUTIVE DECISIONS

19A.1 After a decision record has been produced and published (whether in the form of Minutes of a meeting or in the decision record format), there will be a period of 5 clear working days before the decision will take effect if not called in within that time, in accordance with Overview and Scrutiny Procedure Rule 16. (NB: please note that regarding decisions by Officers, only key decisions by Officers are subject to the call in period).

19B OTHER DECISIONS BY INDIVIDUAL OFFICERS

19B.1 An Officer must produce a written record of any decision which they make which falls within paragraph 19B.2.

19B.2 A decision falls within this paragraph if it would otherwise have been taken by North Yorkshire Council, or a committee, sub-committee of the Council (or a joint committee in which the Council participates), but it has been delegated to an Officer of the Council either -

- (i) under a specific express authorisation; or
- (ii) under a general authorisation to Officers to take such decisions and, the effect of the decision is to -
 - (a) grant a permission or licence
 - (b) affect the rights of an individual; or
 - (c) award a contract or incur expenditure which, in either case, materially affects that relevant local government body's financial position.

Guidance points:

Regarding non-executive decisions by Officers, examples of such decisions which should normally be recorded include:

- those made in pursuance of a specific delegation made at a formal committee meeting
- those granting planning/development control/licensing permissions
- those awarding a contract or incurring expenditure of more than £50,000.

Regarding non-executive decisions by Officers, those decisions which are purely administrative or operational in nature will not usually be subject to the decision record recording and publication requirements. The authority has agreed to categorise as administrative/operational those non-executive decisions of the type specified in 19B.2(ii) above which:

- are routine, day to day operational decisions under general delegations; and
- are within approved budget and policy; and
- have financial implications of £50,000 or less:

HOWEVER, each matter should be considered in light of its particular circumstances and with regard to the likely level of public interest in it.

DCLG has offered guidance on what should and should not be recorded:

...

Examples of decisions that should be recorded could include:

- Decisions about awarding contracts above specified individual or total values (the values will vary according to the relevant council or local government body)
- a decision to carry out major road works
- determination of licensing applications, building control decisions and notices; and
- decisions to give listed building consents.

Where decisions are already required to be published by other legislation, they do not need to be recorded again provided the record published includes the date the decision was taken and the reasons for the decision.

Decisions that do not need to be recorded might include the following examples:

- Routine administrative and organisational decisions such as giving permission to a local society to use the authority's premises
- decisions on operational matters such as day to day variations in services
- decisions to give business relief to individual traders
- decisions to review the benefit claims of an individual applicant; and
- decisions taken in response to requests under Data Protection Act 1998 or the Freedom of Information Act 2000.

19B.3 As soon as reasonably practicable after a recordable decision at 19B.2 has been taken by an individual Officer, they will prepare a record of the decision including the date it was made; a statement of the reasons for it and any alternative options considered and rejected; and, where the decision falls under paragraph (i) of 19B.2, the names of any Member of the relevant local government body who has declared a conflict of interest in relation to the decision.

19B.4 The duty imposed by paragraph 19B.1 is satisfied where, in respect of a decision, a written record containing the following information is already required to be produced in accordance with any other statutory requirement -

- the date the decision was taken; and
- a record of the decision taken along with reasons for the decision.

19B.5 Where an Officer makes a decision which falls within paragraph 19B.2, they will, as soon as reasonably practicable after the record is made -

- make the decision record, together with any report and background papers, available for inspection by members of the public, at all reasonable hours, at the offices of the relevant local government body; and
- forward a copy of the decision record, together with any background papers, to the Assistant Chief Executive Legal and Democratic Services who will publish the decision record, together with any report and background papers, on the website of the relevant local government body, if it has one, and email copies of the decision record, as soon as possible, to the Members and Officers listed in paragraph 19.3(b) of the Council's Access to Information Procedure Rules,

subject to the exclusion of any document or part of a document which the Proper Officer is of the opinion contains, or may contain, confidential or exempt information.

20. OVERVIEW AND SCRUTINY COMMITTEES ACCESS TO DOCUMENTS

20.1 Rights to copies

20.1.1 Subject to Rule 20.2 below, an Overview and Scrutiny Committee (including its sub-committees) will be entitled to copies of any document which is in the possession or control of the Executive or its committees and which contains material relating to:

- (a) any business transacted at a public or private meeting of the Executive or its committees or other executive decision making body; or
- (b) any executive decision taken by an individual Member of the Executive; or
- (c) any executive decision taken by an Officer.

20.1.2 Subject to Rule 20.2, where a member of an Overview and Scrutiny Committee requests a document which falls within Rule 20.1.1, the Executive must provide that document as soon as reasonably practicable and in any case no later than 10 clear calendar days after the Executive receives the request.

20.2 Limit on Rights

20.2.1 An Overview and Scrutiny Committee Member will not be entitled to a copy of:

- (a) any document that is in draft form
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision that Member is reviewing or scrutinising or relevant to any review contained in any programme of work of such a committee or sub-committee of such a committee; or
- (c) the advice of a political adviser.

20.2.2 Where the Executive determines that a member of an Overview and Scrutiny Committee is not entitled to a copy of a document or part of any such document for a reason set out above, it must provide the Overview and Scrutiny Committee with a written statement setting out its reasons for that decision.

21. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

21.1 General provisions

- (a) A Member may inspect any document (other than a document containing confidential information as defined in Rule 10.4 above, which will be provided to Members on a need to know basis only) which has been considered by the Council, a committee or sub-committee, including any reports, correspondence or other document which is circulated after the agenda or at the meeting, and if copies are available shall on request be supplied with a copy of such document, in electronic form if practicable, provided that a Member shall not knowingly inspect, and shall not call for a copy of, any document relating to a matter in which they have an interest precluding participation within the meaning of the Members' Code of Conduct. This does not affect:
 - (i) the right of inspection given by section 228 of the Local Government Act 1972
 - (ii) the right to inspect and make or be supplied with copies of documents given by Part VA of the Local Government Act 1972
 - (iii) such additional rights in regard to the making available of minutes of meetings to members of the Council who are not members of the body in question
 - (iv) the right of the Assistant Chief Executive Legal and Democratic Services to decline to allow inspection of any document which is, or in the event of legal proceedings would be, protected by privilege arising from the relationship of solicitor and client.
- (b) Any Member is also entitled to inspect any document in the possession of or under the control of the Executive which contains material relating to any business to be transacted at a public meeting. Such a document must be available for inspection for at least five clear working days before the meeting, except that where the meeting is convened at shorter notice, the document must be available for inspection when the meeting is convened; and where an

item is added to the agenda at shorter notice, a document which would be required to be available in relation to that item, must be available for inspection when the item is added to the agenda.

- (c) Any Member is also entitled to inspect any document in the possession of or under the control of the Executive which contains material relating to any business transacted at a private meeting; or to any executive decision made by an individual Executive Member or Officer. Such a document must be available when the meeting concludes or immediately after the decision has been taken by the individual Member or Officer as the case may be and in any event within 24 hours of the conclusion of the meeting or the individual decision being made. Such documents do not have to be available for inspection where they contain certain categories of exempt information or disclose advice from a political adviser or assistant.

21.2 Inspection of minutes

All minutes kept by the Executive and by any committee or sub-committee shall be open to the inspection of any Member of the Council or of the committee or sub-committee during office hours unless the committee or sub-committee, for exceptional reasons, specified in a resolution passed by it, directs to the contrary.

21.3 Information provided in confidence

- (a) If a Member requests that advice or factual information given to them by Officers be treated confidentially, this request should be respected and neither the fact that the Member has asked for the advice or information, nor the advice or information given, shall be related to another Member or Members.
- (b) The fact that a Member has asked for and received advice or factual information in confidence shall not override the duty of Officers to provide the same advice/factual information to any other Members, if that advice or information is relevant to the exercise of their functions.
- (c) All letters sent to Members shall bear on their face an indication of which other Members (if any) have been sent copies.

21.4 Press releases

Any Member of the Council may issue a press release in their individual capacity. Political groups represented on the Council have the right to use County Hall equipment, on behalf of the group to issue press releases on matters relating to the business of the Council. All press releases issued on behalf of the Council itself, or any committee of the Council, must comply with any relevant protocol on press releases contained in Part 5 of this Constitution.

22. RIGHTS OF MEMBERS NOT SERVING ON A BODY TO ATTEND AND SPEAK

- (a) Members have the right to attend any meeting of a formal Member level body of the Council, including the Executive, including for items which are to be discussed in private because they contain exempt information, but not for items which contain confidential information, as defined in the access to

information legislation, and not if the Member(s) has an interest precluding participation as defined in the Members' Code of Conduct.

- (b) Members have the right to attend and address, for not more than five minutes, any meeting of a formal Member level body of the Council on any matter on the agenda for that meeting, subject to having no interest precluding participation in the matter to be discussed, and may be invited to speak again, or for a longer period, at the discretion of the Chair of that body.
- (c) Members of the public have a right to attend any meeting of the Council its committees, and the Executive, or that part of the proceedings which is held in public; to have access to any public report or other public papers and to ask questions or make statements relating to the business of that body in accordance with Council Procedure Rule 9.

A table summarising the procedural requirements set out in these Rules, relating to executive and non-executive decisions, is included in the Appendix to these Rules.

Appendix to the Access to Information Procedure Rules

Explanatory Note

[This note does not itself form part of the Constitution, but seeks to present the rules about decision making and access to information in an easily accessible way]

CURRENT RULES APPLYING TO TYPES OF DECISION

Decision type		Taken by	28 clear calendar ¹⁰ days' publication on Forward Plan?	28 and 5 clear days' notices of exempt information? ¹⁰	5 clear days' notice and report? ³	Decision record?	Subject to call-in?
Executive decisions	Key decisions	Member body¹	YES	YES ⁹	YES	YES ⁵	YES
		Individual Executive Member	YES	NO	YES	YES	YES
		Individual Officer	YES	NO	YES	YES	YES
	Other Executive decisions	Member body¹	NO	YES ⁹	YES	YES ⁶	YES
		Individual Executive member	NO	NO	YES	YES	YES
		Individual Officer	NO	NO	NO ¹¹	YES ⁸ (Unless purely administrative – see footnote 8)	NO
Non-executive decisions	Major decisions	Member body²	YES ⁴	NO	YES	YES ⁶	NO
		Individual Officer	YES ⁴	NO	NO	CASE DEPENDENT (See footnote 7)	NO
	Other non-executive decisions	Member body²	NO	NO	YES	YES ⁶	NO
		Individual Officer	NO	NO	NO	CASE DEPENDENT (See footnote 7)	NO

Notes:

1. *Either the Executive, Committee of the Executive or an Area Committee.*
2. *The Strategic Planning Committee, Area Planning Committees, Statutory Licensing Committee and Sub-Committees, General Licensing and Registration Committee and Sub-Committees, Standards and Governance Committee, Standards and Governance Committee Hearings Panel, Audit Committee, Appeals Committee (Home to School Transport), Employment Appeals Committee, Chief Officers Appointments and Disciplinary Committee, Pension Fund Committee, Area Committees (when exercising non-executive functions) and the Council.*
3. *Five clear days' notice and report – this requirement will be met in relation to member bodies by the publication of agenda papers. For Executive Members it will be met by the requirement that if there is a report which is to be taken into account in making any executive decision, it will be made available to the relevant Overview and Scrutiny Committee Chair and Vice-Chair and be available for public inspection. The same will apply to key decisions to be taken by Officers. [Please also see Note 11 – for other relevant executive decisions by Officers, any report and papers upon which the decisions are based will need to be published following the taking of the decision]. For the purpose of counting five clear days, only days when County Hall is open should be counted, i.e. not weekends or bank holidays.*
4. *Publication of these matters in the Forward Plan is a locally adopted practice and not a statutory obligation.*
5. *By minutes of Executive (or Committee of Executive) and Area Committees.*
6. *By way of minutes of meetings.*
7. *A decision record must be produced, published on the website, and made available for public inspection, where the decision has been made by an individual Officer either -*
 - (i) *under a specific express authorisation; or*
 - (ii) *under a general authorisation to officers to take such decisions and, the effect of the decision is to -*
 - *grant a permission or licence*
 - *affect the rights of an individual; or*
 - *award a contract or incur expenditure which, in either case, materially affects that relevant local government body's financial position.*

Examples of such decisions which should normally be recorded include:

- *those made in pursuance of a specific delegation made at a formal committee meeting*
- *those granting planning/development control/licensing permissions*
- *those awarding a contract or incurring expenditure of more than £50,000.*

Non-executive decisions which are purely administrative or operational in nature will not usually be subject to the decision record recording and publication requirements, for example those which:

- are routine, day to day operational decisions under general delegations; and
- are within approved budget and policy; and
- have financial implications of £50,000 or less.

HOWEVER, each matter should be considered in light of its particular circumstances and with regard to the likely level of public interest in it.

NB: No need to publish non-executive decision record where the decision already has to be published under other legislation (provided it includes date of decision and reasons for it).

Where a non-executive decision by an individual Officer does not fall into one of the above descriptions, a decision record is not required.

8. *The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 require the recording of **executive** decisions made by individual Members or Officers under delegated arrangements (this changed the previous provision that only key decisions by Officers needed to be the subject of a decision record). However, those executive decisions which are purely administrative or operational in nature will not usually be subject to the decision record recording and publication requirements. The authority has agreed to categorise as administrative/operational those executive decisions which are not key decisions and which:*

- are routine, day to day operational decisions under general delegations; and
- are within approved budget and policy; and
- have financial implications of £50,000 or less

HOWEVER, each matter should be considered in light of its particular circumstances and with regard to the likely level of public interest in it.

9. *The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 require the publishing of notices of any exempt/confidential items **by executive decision making bodies** at least 28 clear calendar days and, subsequently, 5 clear working days before the meeting. This does NOT apply to individual decisions by individual Executive Members or Officers.*
10. *For longer publication requirements such as 28 days, this is a reference to clear calendar days. For shorter publication requirements eg 5 days, this is a reference to clear working days (see note 3 above).*
11. *For any reports and papers considered by individual Officers relevant to any executive decisions recorded, the reports and papers upon which the decisions are based will not need to be published 5 clear working days in advance of the decision but will need to be published as soon as reasonably practicable following the taking of the decision.*